CHROK 3

IN THE HIGH COURT OF CHHATTISGARH
AT BILASPUR

W.P. No. 2791 /2003

Petitioner : SURENDRA KUMAR ARORA,
S/o Jeevandamal kakkad
aged about 42 years,
R/o A-20, Shankar Nagar,
Raipur (C.G.)

W.P. No. 2637/03
Presented by Shri Pradeep Sinha
dated 03.09.03

VERSUS

Respondents :

1. State of Chhattisgarh,
through : The Secretary
Revenue Department,
D.K.S. Bhawan, Raipur (C.G.)

2. Board of Revenue,
Gwalior (M.P.)

3. N.M.D.C. Employees Cooperative
Housing Society Ltd.,
Through it's Secretary,
Civil Lines, Raipur,
Distt. Raipur (C.G.)

4. Raipur Development Authority
Now merged in Municipal
Corporation, Raipur (PRA-PRA)
Through : Commissioner
Municipal Corporation, Raipur.

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WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

1. PARTICULARS OF THE PETITIONER :

As stated in the cause title.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(62)

आदेश पत्रक

मामला क्रमांक W.P. 2791/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	09.09.2003 Shri Prateek Sinha, counsel for the petitioner. Shri Ranbir Singh, Govt. Advocate for the State/respondent No.1. Heard both the counsel. By this writ petition under Article 226/227 of the Constitution of India, the petitioner seeks to challenge the order dated 31.10.2002 passed by the Board of Revenue, Gwalior (M.P.) by which the Board of Revenue allowed the petition of respondent No.3 and set aside the orders of all the subordinate Courts and directed the Additional Tehsildar to decide the matter after giving opportunity to all the parties. The case of the petitioner is that respondent No.3 on 16.07.1999 moved a complaint against the petitioner to the Collector, Raipur and Raipur Development Authority, to the effect that the petitioner is trying to take forceful possession of land of respondent No.3 situated at New Rajendra Nagar, Tikrapara, Patwari Circle No.14, bearing khasra numbers as mentioned in para-5.1 of the petition. Thereafter, on 10.08.1999 respondent No.3 tried to take possession of the petitioner's land bearing Khasra Nos.376/2, 380/3, 380/4, 381/2, 382/3 & 382/4 total area admeasuring 19,965 sq. fts. and locked the door affixed at barbed fencing in the petitioner's land.	

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आदेश पत्रक

मामला क्रमांक W.P.2291/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	The petitioner made a complaint to the Station House Officer, Tikarapara. On the basis of the complaint moved by the petitioner, the Collector, Raipur directed the Sub Divisional Magistrate to enquire into the matter and submit a report. The learned Sub Divisional Magistrate submitted the report on 08.03.2000. In the report it was mentioned that prima facie disputed land appears to be of the petitioner and suggested for demarcation of the land in presence of concerned parties. The petitioner moved a report before the Additional Tehsildar, Revenue, under Section 250 of the M.P. Land Revenue Code, 1959, for recovery of the possession. Notices were issued to respondents 3 & 4 and the case was registered as Revenue Case No.9-A/70. The President of respondent No.3-society entered into appearance. Respondent No.3 had not filed any objection before the Additional Tehsildar. Therefore, proceedings were taken ex-parte. The Additional Tehsildar held that on the basis of the demarcation report and revenue records land situated at Village: Tikrapara is Bhoomiswami land of the petitioner and directed respondent No.3-society not to interfere with possession of the petitioner. Thereafter, respondent No.3 preferred an appeal before the Sub Divisional Officer, Raipur. The Sub Divisional Officer vide his order dated 20.11.2001, dismissed the appeal. Being aggrieved by the order of the learned S.D.O., respondent No.3 preferred second	

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आदेश पत्रक

मामला क्रमांक W.P.2791/ सन् 2003

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

appeal before the Additional Commissioner, who has confirmed the order of the S.D.O. by his order dated 16.05.2002. Respondent No.3 preferred a preferred a revision before the Board of Revenue and the Board of Revenue vide the impugned order dated 31.10.2002 set aside the order passed by the Additional Tehsildar and held that demarcation was not in accordance with the requirements and no field book was prepared and these aspects were not considered by the lower Courts therefore, orders passed by the lower Courts are liable to be set aside. The Revenue Board further directed that application be decided after affording proper opportunity to the parties.

I have perused the impugned order. In para-6 the Revenue Board has observed that the order of the trial Court has been passed based on the representation dated 05.06.2000 as the demarcation is the important aspect in this case. After giving reasonings, the Court reached the conclusion that the trial Court has not considered the relevant facts while passing the order of demarcation. It has also been mentioned that as to how the demarcation was effected and how it is legal. No field book was prepared and ultimately, the Revenue Board reached the conclusion that the orders of the trial Court is not legal and set aside all the orders of the subordinate Courts and it is directed that the Additional Tehsildar should now undertake the work of demarcation after giving opportunity to both the parties.

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आदेश पत्रक

मामला क्रमांक W.P.2791/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioner could not point out any illegality and infirmity because the matter has been remanded back and the Additional Tehsildar has been directed to demarcate the land of both the parties after giving opportunity to them. Therefore, rights are not going to effected if the impugned order.

Therefore, I do not find force in this petition.

Learned counsel for the petitioner submits that the matter is pending since ten months and the Additional Teshildar be directed to expedite the proceedings and pass appropriate order expeditiously. The request of the learned counsel is just and fair.

Therefore, the Additional Tehsildar is directed to expedite the proceedings as directed by the Revenue Board and decide the matter as early as possible.

Accordingly, the writ petition stands disposed of.

Consequently, I.A.No.8387/2003 also stands disposed of.

Sd/-
L.C.BHADOO
Judge

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12.9.03 17/3/12